

House Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 287

HOUSE BILL 2769

AN ACT

AMENDING SECTIONS 15-2002, 15-2031, 15-2041, 15-2055 AND 42-5030.01, ARIZONA REVISED STATUTES; AMENDING LAWS 2002, CHAPTER 330, SECTION 43, AS AMENDED BY LAWS 2003, FIRST SPECIAL SESSION, CHAPTER 2, SECTION 9; AMENDING LAWS 2003, FIRST SPECIAL SESSION, CHAPTER 2, SECTION 22; MAKING AN APPROPRIATION; RELATING TO THE SCHOOL FACILITIES BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)



STATE OF ARIZONA

JANET NAPOLITANO
GOVERNOR

OFFICE OF THE GOVERNOR
1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007

MAIN PHONE: 602-542-4331
FACSIMILE: 602-542-7601

May 20, 2005

The Honorable James Weiers
Speaker of the House
House of Representatives
1700 West Washington Street
Phoenix, Arizona 85007

Re: House Bill 2769: school facilities board; budget

Dear Speaker Weiers:

Today I signed House Bill 2769, subject to my line item veto of provisions related to the building renewal formula.

I have line item vetoed section 2 (page 5, line 31 through page 8, line 41), the proposed change in the building renewal funding formula, and the part of section 11 (page 16, line 34, "15-2031") that relates to the effective date for the proposed change in the funding formula. This veto should not come as a surprise, as this is now the fifth time I have vetoed language related to changes in the building renewal formula. My reasons for doing so are unchanged from those set forth in my May 28, 2004 line item veto message regarding Senate Bill 1406, my June 17, 2003 line item veto message regarding House Bill 2534, my May 9, 2003 veto message regarding House Bill 2012, and my March 21, 2005 veto message regarding Senate Bill 1394.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano".
Janet Napolitano
Governor

JN:NCD/jm

cc: The Honorable Ken Bennett
The Honorable Tom Boone

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-2002, Arizona Revised Statutes, is amended to
3 read:

4 15-2002. Powers and duties; executive director; staffing;
5 report

6 A. The school facilities board shall:

7 1. Make assessments of school facilities and equipment deficiencies
8 pursuant to section 15-2021 and approve the distribution of grants as
9 appropriate.

10 2. Develop a database for administering the building renewal formula
11 prescribed in section 15-2031 and administer the distribution of monies to
12 school districts for building renewal.

13 3. Inspect school buildings at least once every five years to ensure
14 compliance with the building adequacy standards prescribed in section 15-2011
15 and routine preventative maintenance guidelines as prescribed in this section
16 with respect to construction of new buildings and maintenance of existing
17 buildings. The school facilities board shall randomly select twenty school
18 districts every thirty months and inspect them pursuant to this paragraph.

19 4. Review and approve student population projections submitted by
20 school districts to determine to what extent school districts are entitled to
21 monies to construct new facilities pursuant to section 15-2041. The board
22 shall make a final determination within six months of the receipt of an
23 application by a school district for monies from the new school facilities
24 fund.

25 5. Certify that plans for new school facilities meet the building
26 adequacy standards prescribed in section 15-2011.

27 6. Develop prototypical elementary and high school designs. The board
28 shall review the design differences between the schools with the highest
29 academic productivity scores and the schools with the lowest academic
30 productivity scores. The board shall also review the results of a valid and
31 reliable survey of parent quality rating in the highest performing schools
32 and the lowest performing schools in this state. The survey of parent
33 quality rating shall be administered by the department of education. The
34 board shall consider the design elements of the schools with the highest
35 academic productivity scores and parent quality ratings in the development of
36 elementary and high school designs. The board shall develop separate school
37 designs for elementary, middle and high schools with varying pupil
38 capacities.

39 7. Develop application forms, reporting forms and procedures to carry
40 out the requirements of this article.

41 8. Review and approve or reject requests submitted by school districts
42 to take actions pursuant to section 15-341, subsection F.

1 9. Submit an annual report by December 15 to the speaker of the house
2 of representatives, the president of the senate, the superintendent of public
3 instruction, the director of the Arizona state library, archives and public
4 records and the governor that includes the following information:

5 (a) A detailed description of the amount of monies distributed by the
6 school facilities board in the previous fiscal year.

7 (b) A list of each capital project that received monies from the
8 school facilities board during the previous fiscal year, a brief description
9 of each project that was funded and a summary of the board's reasons for the
10 distribution of monies for the project.

11 (c) A summary of the findings and conclusions of the building
12 maintenance inspections conducted pursuant to this article during the
13 previous fiscal year.

14 (d) A summary of the findings of common design elements and
15 characteristics of the highest performing schools and the lowest performing
16 schools based on academic productivity including the results of the parent
17 quality rating survey.

18 For the purposes of this paragraph, "academic productivity" means academic
19 year advancement per calendar year as measured with student-level data using
20 the statewide nationally standardized norm-referenced achievement test.

21 10. By December 1 of each year, report to the joint committee on
22 capital review the amounts necessary to fulfill the requirements of sections
23 15-2021, 15-2022, 15-2031 and 15-2041 for the following fiscal year and the
24 estimated amounts necessary to fulfill the requirements of sections 15-2021,
25 15-2022, 15-2031 and 15-2041 for the fiscal year following the next fiscal
26 year. ~~No later than January 1 of each year, the board shall instruct the~~
27 ~~state treasurer as to the amounts under the transaction privilege tax to be~~
28 ~~credited in equal quarterly installments for the following state fiscal~~
29 ~~year.~~ The board shall provide copies of both reports THE REPORT to the
30 president of the senate, the speaker of the house of representatives and the
31 governor.

32 11. Adopt minimum school facility adequacy guidelines to provide the
33 minimum quality and quantity of school buildings and the facilities and
34 equipment necessary and appropriate to enable pupils to achieve the
35 educational goals of the Arizona state schools for the deaf and the
36 blind. The school facilities board shall establish minimum school facility
37 adequacy guidelines applicable to the Arizona state schools for the deaf and
38 the blind by December 31, 2000.

39 12. Beginning August 15, 2004, and each even-numbered year thereafter,
40 report to the joint committee on capital review the amounts necessary to
41 fulfill the requirements of sections 15-2031 and 15-2041 for the Arizona
42 state schools for the deaf and the blind for the following two fiscal
43 years. ~~Notwithstanding paragraph 10 of this subsection or any other law, the~~
44 ~~school facilities board shall not include these amounts in the building~~
45 ~~renewal or new school facilities transfer instructions to the state~~

1 ~~treasurer.~~ The Arizona state schools for the deaf and the blind shall
2 incorporate the findings of the report in any request for building renewal
3 monies and new school facilities monies. Any monies provided to the Arizona
4 state schools for the deaf and the blind for building renewal and for new
5 school facilities are subject to legislative appropriation.

6 13. By October 15 of each year, ~~the school facilities board shall~~
7 submit information regarding demographic assumptions, a proposed construction
8 schedule and new school construction cost estimates for the following fiscal
9 year to the joint committee on capital review for its review.

10 8. The school facilities board may contract for private services in
11 compliance with the procurement practices prescribed in title 41, chapter 23.

12 C. The governor shall appoint an executive director of the school
13 facilities board pursuant to section 38-211. The executive director is
14 eligible to receive compensation as determined pursuant to section 38-611 and
15 may hire and fire necessary staff as approved by the legislature in the
16 budget. The executive director shall have demonstrated competency in school
17 finance, facilities design or facilities management, either in private
18 business or government service. The executive director serves at the
19 pleasure of the governor. The staff of the school facilities board is exempt
20 from title 41, chapter 4, articles 5 and 6. The executive director:

21 1. Shall analyze applications for monies submitted to the board by
22 school districts.

23 2. Shall assist the board in developing forms and procedures for the
24 distribution and review of applications and the distribution of monies to
25 school districts.

26 3. May review or audit, or both, the expenditure of monies by a school
27 district for deficiencies corrections, building renewal and new school
28 facilities.

29 4. Shall assist the board in the preparation of the board's annual
30 report.

31 5. Shall research and provide reports on issues of general interest to
32 the board.

33 6. May aid school districts in the development of reasonable and
34 cost-effective school designs in order to avoid statewide duplicated efforts
35 and unwarranted expenditures in the area of school design.

36 7. May assist school districts in facilitating the development of
37 multijurisdictional facilities.

38 8. Shall assist the board in any other appropriate matter or method as
39 directed by the members of the board.

40 9. Shall establish procedures to ensure compliance with the notice and
41 hearing requirements prescribed in section 15-905. The notice and hearing
42 procedures adopted by the board shall include the requirement, with respect
43 to the board's consideration of any application filed after July 1, 2001 or
44 after December 31 of the year in which the property becomes territory in the
45 vicinity of a military airport or ancillary military facility as defined in

1 section 28-8461 for monies to fund the construction of new school facilities
2 proposed to be located in territory in the vicinity of a military airport or
3 ancillary military facility, that the military airport receive notification
4 of the application by first class mail at least thirty days before any
5 hearing concerning the application.

6 10. May expedite any request for funds in which the local match was not
7 obtained for a project that received preliminary approval by the state board
8 for school capital facilities.

9 11. Shall expedite any request for funds in which the school district
10 governing board submits an application that shows an immediate need for a new
11 school facility.

12 12. Shall make a determination as to administrative completion within
13 one month after the receipt of an application by a school district for monies
14 from the new school facilities fund.

15 13. Shall provide technical support to school districts as requested by
16 school districts in connection with the construction of new school facilities
17 and the maintenance of existing school facilities.

18 D. When appropriate, the school facilities board shall review and use
19 the statewide school facilities inventory and needs assessment conducted by
20 the joint committee on capital review and issued in July, 1995.

21 E. The school facilities board shall contract with one or more private
22 building inspectors to complete an initial assessment of school facilities
23 and equipment provided in section 15-2021 and shall inspect each school
24 building in this state at least once every five years to ensure compliance
25 with section 15-2011. A copy of the inspection report, together with any
26 recommendations for building maintenance, shall be provided to the school
27 facilities board and the governing board of the school district.

28 F. The school facilities board may consider appropriate combinations
29 of facilities or uses in making assessments of and curing deficiencies
30 pursuant to subsection A, paragraph 1 of this section and in certifying plans
31 for new school facilities pursuant to subsection A, paragraph 5 of this
32 section.

33 G. The board shall not award any monies to fund new facilities that
34 are financed by class A bonds that are issued by the school district.

35 H. The board shall not distribute monies to a school district for
36 replacement or repair of facilities if the costs associated with the
37 replacement or repair are covered by insurance or a performance or payment
38 bond.

39 I. The board may contract for construction services and materials that
40 are necessary to correct existing deficiencies in school district facilities
41 as determined pursuant to section 15-2021. The board may procure the
42 construction services necessary pursuant to this subsection by any method
43 including construction-manager-at-risk, design-build, design-bid-build or
44 job-order-contracting as provided by title 41, chapter 23. The construction

1 planning and services performed pursuant to this subsection are exempt from
2 section 41-791.01.

3 J. The school facilities board may enter into agreements with school
4 districts to allow school facilities board staff and contractors access to
5 school property for the purposes of performing the construction services
6 necessary pursuant to subsection I of this section.

7 K. By October 1, 2002, each school district shall develop routine
8 preventative maintenance guidelines for its facilities. The guidelines shall
9 be submitted to the school facilities board for review and approval by
10 February 1, 2003. If upon inspection by the school facilities board it is
11 determined that a school district facility was inadequately maintained
12 pursuant to the school district's routine preventative maintenance
13 guidelines, the school district shall use building renewal monies pursuant to
14 section 15-2031, subsection J to return the building to compliance with the
15 school district's routine preventative maintenance guidelines. Once the
16 district is in compliance, it no longer is required to use building renewal
17 monies for preventative maintenance.

18 L. The school facilities board may temporarily transfer monies between
19 the capital reserve fund established by section 15-2003, the deficiencies
20 correction fund established by section 15-2021, the emergency deficiencies
21 correction fund established by section 15-2022, the building renewal fund
22 established by section 15-2031 and the new school facilities fund established
23 by section 15-2041 if all of the following conditions are met:

24 1. The transfer is necessary to avoid a temporary shortfall in the
25 fund into which the monies are transferred.

26 2. The transferred monies are restored to the fund where the monies
27 originated as soon as practicable after the temporary shortfall in the other
28 fund has been addressed.

29 3. The school facilities board reports to the joint committee on
30 capital review the amount of and the reason for any monies transferred.

31 ~~Sec. 2. Section 15-2031, Arizona Revised Statutes, is amended to read:~~
32 15-2031. Building renewal fund; definitions

33 A. A building renewal fund is established consisting of monies
34 appropriated by the legislature ~~and monies credited to the fund pursuant to~~
35 ~~section 42-5030.01.~~ The school facilities board shall administer the fund
36 and distribute monies to school districts for the purpose of maintaining the
37 adequacy of existing school facilities. ~~Monies in the fund are continuously~~
38 ~~appropriated and are exempt from the provisions of section 35-190 relating to~~
39 ~~lapsing of appropriation.~~

40 B. The school facilities board shall inventory and inspect all school
41 buildings in this state in order to develop a database to administer the
42 building renewal formula. The database shall include the student capacity of
43 the building as determined by the school facilities board. The board shall
44 distribute monies from the building renewal fund to school districts in an
45 ~~amount computed pursuant to subsection G of this section. A school district~~

1 ~~that receives monies from the building renewal fund shall use the monies~~
2 primarily for any buildings in the database developed or created under
3 subsection D of this section and secondly for any other buildings owned by
4 the school district for any of the following:
5 1. Major renovations and repairs of a building.
6 2. Upgrading systems and areas that will maintain or extend the useful
7 life of the building.
8 3. Infrastructure costs.
9 4. Relocation and placement of portable and modular buildings.
10 C. Monies received from the building renewal fund shall not be used
11 for any of the following purposes:
12 1. New construction.
13 2. Remodeling interior space for aesthetic or preferential reasons.
14 3. Exterior beautification.
15 4. Demolition.
16 5. The purchase of soft capital items pursuant to section 15-962,
17 subsection D.
18 6. Routine maintenance except as provided in section 15-2002,
19 subsection K and subsection J of this section.
20 D. The school facilities board shall maintain the building renewal
21 database and use the database for the computation of the building renewal
22 formula distributions. The board shall ensure that the database is updated
23 on at least an annual basis to reflect changes in the ages and value of
24 school buildings. The facilities listed in the database shall include only
25 those buildings that are owned by school districts that are required to meet
26 academic standards. Each school district shall report to the school
27 facilities board no later than September 1 of each year the number and type
28 of school buildings owned by the district, the square footage of each
29 building, the age of each building, the nature of any renovations completed
30 and the cost of any renovations completed. The school facilities board may
31 review or audit, or both, to confirm the information submitted by a school
32 district. The board shall adjust the age of each school facility in the
33 database whenever a building is significantly upgraded or remodeled. The age
34 of a building that has been significantly upgraded or remodeled shall be
35 recomputed as follows:
36 1. Divide the cost of the renovation by the building capacity value of
37 the building determined in subsection G, paragraph 3 of this section.
38 2. Multiply the quotient determined in paragraph 1 of this subsection
39 by the currently listed age of the building in the database.
40 3. Subtract the product determined in paragraph 2 of this subsection
41 from the currently listed age of the building in the database, rounded to the
42 nearest whole number. If the result is negative, use zero.
43 E. The school facilities board shall submit an annual report to the
44 president of the senate, the speaker of the house of representatives, the
45 Arizona state library, archives and public records and the governor by

1 ~~October 1 that includes the computation of the amount of monies to be~~
2 distributed from the building renewal fund for the current fiscal year. The
3 joint committee on capital review shall review the school facilities board's
4 calculation of the building renewal fund distributions. After the joint
5 committee on capital review reviews the distributions computed by the school
6 facilities board, the school facilities board shall distribute the monies
7 from the building renewal fund to school districts in two equal installments
8 in November and May of each year.

9 F. School districts that receive monies from the building renewal fund
10 shall establish a district building renewal fund and shall use the monies in
11 the district building renewal fund only for the purposes prescribed in
12 subsection B of this section. Ending cash balances in a school district's
13 building renewal fund may be used in following fiscal years for building
14 renewal pursuant to subsection B of this section. By October 15 of each
15 year, each school district shall report to the school facilities board the
16 projects funded at each school in the previous fiscal year with monies from
17 the district building renewal fund, an accounting of the monies remaining in
18 the district building renewal fund at the end of the previous fiscal year and
19 a comprehensive five-year plan that details the proposed use of building
20 renewal monies. If a school district fails to submit the report by October
21 15, the school facilities board shall withhold building renewal monies from
22 the school district until the school facilities board determines that the
23 school district has complied with the reporting requirement. When the school
24 facilities board determines that the school district has complied with the
25 reporting requirement, the school facilities board shall restore the full
26 amount of withheld building renewal monies to the school district.

27 G. Notwithstanding any other provision of this chapter, if a school
28 district converts space that is listed in the database maintained pursuant to
29 this section to space that will be used for administrative purposes, the
30 school district is responsible for any costs associated with the conversion,
31 maintenance and replacement of that space. The building renewal amount for
32 each school building shall be computed as follows:

33 1. Divide the age of the building as computed pursuant to subsection D
34 of this section by one thousand two hundred seventy-five or, in the case of
35 modular or portable buildings, by two hundred ten.

36 2. Multiply the quotient determined in paragraph 1 of this subsection
37 by 0.67.

38 3. Determine the building capacity value as follows:

39 (a) Multiply the student capacity of the building by the per student
40 square foot capacity SQUARE FOOTAGE PER PUPIL REQUIREMENTS established by
41 section 15-2041 15-2011.

42 (b) Multiply the product determined in subdivision (a) of this
43 paragraph by the REPLACEMENT cost per square foot established by section
44 15-2041. FOR THE PURPOSES OF THIS SUBDIVISION, "REPLACEMENT COST" MEANS

~~EIGHTY FIVE PER CENT OF THE COST PER SQUARE FOOT FOR NEW SCHOOL CONSTRUCTION FOR THE SPECIFIC GRADE CONFIGURATION PRESCRIBED IN SECTION 15-2041.~~

4. Multiply the product determined in paragraph 2 of this subsection by the product determined in paragraph 3, subdivision (b) of this subsection.

H. If the school facilities board determines that a school district has spent monies from the building renewal fund for purposes other than those prescribed in subsection B of this section, the school facilities board shall notify the superintendent of public instruction. Notwithstanding any other law, the superintendent of public instruction shall withhold a corresponding amount from the monies that would otherwise be due the school district under the capital outlay revenue limit until these monies are repaid.

I. Beginning on July 1, 2002, a school district is not entitled to receive monies from the building renewal fund for any buildings that are to be replaced with new buildings that are funded with deficiencies corrections monies pursuant to section 15-2021. The replacement buildings are not eligible to receive building renewal funding until the fiscal year following the completion of the building.

J. Notwithstanding subsections I and J of this section, a school district may use eight per cent of the building renewal amount computed pursuant to subsection G of this section for routine preventative maintenance. The board, after consultation with maintenance specialists in school districts, shall provide examples of recommended services that are routine preventative maintenance.

K. A school district that uses building renewal monies for routine preventative maintenance shall use the building renewal monies to supplement and not supplant expenditures from other funds for the maintenance of school buildings. The auditor general shall prescribe a method for determining compliance with the requirements of this subsection. A school district, in connection with any audit conducted by a certified public accountant, shall also contract for an independent audit to determine whether the school district used building renewal monies to reduce the school district's existing level of routine preventative maintenance funding. The auditor general may conduct discretionary reviews of a school district that is not required to contract for an independent audit.

L. For the purposes of this section:

1. "Routine preventative maintenance" means services that are performed on a regular schedule at intervals ranging from four times a year to once every three years and that are intended to extend the useful life of a building system and reduce the need for major repairs.

2. "Student capacity" has the same meaning prescribed in section 15-2011.

Sec. 3. Section 15-2041, Arizona Revised Statutes, is amended to read: 15-2041. New school facilities fund; capital plan

A. A new school facilities fund is established consisting of monies appropriated by the legislature and monies credited to the fund pursuant to

1 section 37-221 or ~~42-5030.01~~. The school facilities board shall administer
2 the fund and distribute monies, as a continuing appropriation, to school
3 districts for the purpose of constructing new school facilities. On June 30
4 of each fiscal year, any unobligated contract monies in the new school
5 facilities fund shall be transferred to the capital reserve fund established
6 by section 15-2003.

7 B. The school facilities board shall prescribe a uniform format for
8 use by the school district governing board in developing and annually
9 updating a capital plan that consists of each of the following:

10 1. Enrollment projections for the next five years for elementary
11 schools and eight years for middle and high schools, including a description
12 of the methods used to make the projections.

13 2. A description of new schools or additions to existing schools
14 needed to meet the building adequacy standards prescribed in section 15-2011.
15 The description shall include:

16 (a) The grade levels and the total number of pupils that the school or
17 addition is intended to serve.

18 (b) The year in which it is necessary for the school or addition to
19 begin operations.

20 (c) A timeline that shows the planning and construction process for
21 the school or addition.

22 3. Long-term projections of the need for land for new schools.

23 4. Any other necessary information required by the school facilities
24 board to evaluate a school district's capital plan.

25 5. If a school district pays tuition for all or a portion of the
26 school district's high school pupils to another school district, the capital
27 plan shall indicate the number of pupils for which the district pays tuition
28 to another district. If a school district accepts pupils from another school
29 district pursuant to section 15-824, subsection A, the school district shall
30 indicate the projections for this population separately. This paragraph does
31 not apply to a small isolated school district as defined in section 15-901.

32 C. If the capital plan indicates a need for a new school or an
33 addition to an existing school within the next four years or a need for land
34 within the next ten years, the school district shall submit its plan to the
35 school facilities board by September 1 and shall request monies from the new
36 school facilities fund for the new construction or land. Monies provided for
37 land shall be in addition to any monies provided pursuant to subsection D of
38 this section.

39 D. The school facilities board shall distribute monies from the new
40 school facilities fund as follows:

41 1. The school facilities board shall review and evaluate the
42 enrollment projections and either approve the projections as submitted or
43 revise the projections. In determining new construction requirements, the
44 school facilities board shall determine the net new growth of pupils that
45 will require additional square footage that exceeds the building adequacy

standards prescribed in section 15-2011. If the projected growth and the existing number of pupils exceeds three hundred fifty pupils who are served in a school district other than the pupil's resident school district, the school facilities board, the receiving school district and the resident school district shall develop a capital facilities plan on how to best serve those pupils. A small isolated school district as defined in section 15-901 is not required to develop a capital facilities plan pursuant to this paragraph.

2. If the approved projections indicate that additional space will not be needed within the next two years for elementary schools or three years for middle or high schools in order to meet the building adequacy standards prescribed in section 15-2011, the request shall be held for consideration by the school facilities board for possible future funding and the school district shall annually submit an updated plan until the additional space is needed.

3. If the approved projections indicate that additional space will be needed within the next two years for elementary schools or three years for middle or high schools in order to meet the building adequacy standards prescribed in section 15-2011, the school facilities board shall provide an amount as follows:

(a) Determine the number of pupils requiring additional square footage to meet building adequacy standards. This amount for elementary schools shall not be less than the number of new pupils for whom space will be needed in the next year and shall not exceed the number of new pupils for whom space will be needed in the next five years. This amount for middle and high schools shall not be less than the number of new pupils for whom space will be needed in the next four years and shall not exceed the number of new pupils for whom space will be needed in the next eight years.

(b) Multiply the number of pupils determined in subdivision (a) of this paragraph by the square footage per pupil. The square footage per pupil is ninety square feet per pupil for preschool children with disabilities, kindergarten programs and grades one through six, one hundred square feet for grades seven and eight, one hundred thirty-four square feet for a school district that provides instruction in grades nine through twelve for fewer than one thousand eight hundred pupils and one hundred twenty-five square feet for a school district that provides instruction in grades nine through twelve for at least one thousand eight hundred pupils. The total number of pupils in grades nine through twelve in the district shall determine the square footage factor to use for net new pupils. The school facilities board may modify the square footage requirements prescribed in this subdivision for particular schools based on any of the following factors:

(i) The number of pupils served or projected to be served by the school district.

(ii) Geographic factors.

1 (iii) Grade configurations other than those prescribed in this
2 subdivision.

3 (iv) Compliance with minimum school facility adequacy requirements
4 established pursuant to section 15-2011.

5 (c) Multiply the product obtained in subdivision (b) of this paragraph
6 by the cost per square foot. The cost per square foot is ninety dollars for
7 preschool children with disabilities, kindergarten programs and grades one
8 through six, ninety-five dollars for grades seven and eight and one hundred
9 ten dollars for grades nine through twelve. The cost per square foot shall
10 be adjusted annually for construction market considerations based on an index
11 identified or developed by the joint legislative budget committee as
12 necessary but not less than once each year. The school facilities board
13 shall multiply the cost per square foot by 1.05 for any school district
14 located in a rural area. The school facilities board may modify the base
15 cost per square foot prescribed in this subdivision for particular schools
16 based on geographic conditions or site conditions. For the purposes of this
17 subdivision, "rural area" means an area outside a thirty-five mile radius of
18 a boundary of a municipality with a population of more than fifty thousand
19 persons according to the most recent United States decennial census.

20 (d) Once the school district governing board obtains approval from the
21 school facilities board for new facility construction funds, additional
22 portable or modular square footage created for the express purpose of
23 providing temporary space for pupils until the completion of the new facility
24 shall not be included by the school facilities board for the purpose of new
25 construction funding calculations. On completion of the new facility
26 construction project, if the portable or modular facilities continue in use,
27 ~~then~~ the portable or modular facilities shall be included as prescribed by
28 this chapter, unless the school facilities board approves their continued use
29 for the purpose of providing temporary space for pupils until the completion
30 of the next new facility that has been approved for funding from the new
31 school facilities fund.

32 4. For projects approved after December 31, 2001, and notwithstanding
33 paragraph 3 of this subsection, a unified school district that does not have
34 a high school is not eligible to receive high school space as prescribed by
35 section 15-2011 and this section unless the unified district qualifies for
36 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of
37 this subsection.

38 E. Monies for architectural and engineering fees shall be distributed
39 on the completion of the analysis by the school facilities board of the
40 school district's request. After receiving monies pursuant to this
41 subsection, the school district shall submit a design development plan for
42 the school or addition to the school facilities board before any monies for
43 construction are distributed. If the school district's request meets the
44 building adequacy standards, the school facilities board may review and
45 comment on the district's plan with respect to the efficiency and

effectiveness of the plan in meeting state square footage and facility standards before distributing the remainder of the monies. The school facilities board may decline to fund the project if the square footage is no longer required due to revised enrollment projections.

F. The school facilities board shall distribute the monies needed for land for new schools so that land may be purchased at a price that is less than or equal to fair market value and in advance of the construction of the new school. If necessary, the school facilities board may distribute monies for land to be leased for new schools if the duration of the lease exceeds the life expectancy of the school facility by at least fifty per cent. The proceeds derived through the sale of any land purchased or partially purchased with monies provided by the school facilities board shall be returned to the state fund from which it was appropriated and to any other participating entity on a proportional basis. If a school district acquires real property by donation at an appropriate school site approved by the school facilities board, the school facilities board shall distribute an amount equal to twenty per cent of the fair market value of the donated real property that can be used for academic purposes. The school district shall place the monies in the unrestricted capital outlay fund and increase the unrestricted capital outlay limit by the amount of monies placed in the fund. Monies distributed under this subsection shall be distributed from the new school facilities fund. A school district shall not pay a consultant a percentage of the value of any of the following:

1. Donations of real property, services or cash from any of the following:

- (a) Entities that have offered to provide construction services to the school district.

- (b) Entities that have been contracted to provide construction services to the school district.

- (c) Entities that build residential units in that school district.

- (d) Entities that develop land for residential use in that school district.

2. Monies received from the school facilities board on behalf of the school district.

3. Monies paid by the school facilities board on behalf of the school district.

G. In addition to distributions to school districts based on pupil growth projections, a school district may submit an application to the school facilities board for monies from the new school facilities fund if one or more school buildings have outlived their useful life. If the school facilities board determines that the school district needs to build a new school building for these reasons, the school facilities board shall remove the square footage computations that represent the building from the computation of the school district's total square footage for purposes of this section. If the square footage recomputation reflects that the school

1 district no longer meets building adequacy standards, the school district
2 qualifies for a distribution of monies from the new school construction
3 formula in an amount determined pursuant to subsection D of this
4 section. Buildings removed from a school district's total square footage
5 pursuant to this subsection shall not be included in the computation of
6 monies from the building renewal fund established by section 15-2031. The
7 school facilities board may modify the base cost per square foot prescribed
8 in this subsection under extraordinary circumstances for geographic factors
9 or site conditions.

10 H. School districts that receive monies from the new school facilities
11 fund shall establish a district new school facilities fund and shall use the
12 monies in the district new school facilities fund only for the purposes
13 prescribed in this section. By October 15 of each year, each school district
14 shall report to the school facilities board the projects funded at each
15 school in the previous fiscal year with monies from the district new school
16 facilities fund and shall provide an accounting of the monies remaining in
17 the new school facilities fund at the end of the previous fiscal year.

18 I. If a school district has surplus monies received from the new
19 school facilities fund, the school district may use the surplus monies only
20 for capital purposes for the project for up to one year after completion of
21 the project. If the school district possesses surplus monies from the new
22 school construction project that have not been expended within one year of
23 the completion of the project, the school district shall return the surplus
24 monies to the school facilities board for deposit in the new school
25 facilities fund.

26 J. The board's consideration of any application filed after July 1,
27 2001 or after December 31 of the year in which the property becomes territory
28 in the vicinity of a military airport or ancillary military facility as
29 defined in section 28-8461 for monies to fund the construction of new school
30 facilities proposed to be located in territory in the vicinity of a military
31 airport or ancillary military facility shall include, if after notice is
32 transmitted to the military airport pursuant to section 15-2002 and before
33 the public hearing the military airport provides comments and analysis
34 concerning compatibility of the proposed school facilities with the high
35 noise or accident potential generated by military airport or ancillary
36 military facility operations that may have an adverse effect on public health
37 and safety, consideration and analysis of the comments and analysis provided
38 by the military airport before making a final determination.

39 K. If a school district uses its own project manager for new school
40 construction, the members of the school district governing board and the
41 project manager shall sign an affidavit stating that the members and the
42 project manager understand and will follow the minimum adequacy requirements
43 prescribed in section 15-2011.

1 L. The school facilities board shall establish a separate account in
2 the new school facilities fund designated as the litigation account to pay
3 attorney fees, expert witness fees and other costs associated with litigation
4 in which the school facilities board pursues the recovery of damages for
5 deficiencies correction that resulted from alleged construction defects or
6 design defects that the school facilities board believes caused or
7 contributed to a failure of the school building to conform to the building
8 adequacy requirements prescribed in section 15-2011. Attorney fees paid
9 pursuant to this subsection shall not exceed the market rate for similar
10 types of litigation. Monies recovered as damages pursuant to this subsection
11 shall be used to offset debt service on the correction of existing
12 deficiencies as prescribed by section 15-2021. The joint committee on
13 capital review shall conduct an annual review of the litigation account,
14 including the costs associated with current and potential litigation.

15 M. Until the state board of education and the auditor general adopt
16 rules pursuant to section 15-213, subsection J, the school facilities board
17 may allow school districts to contract for construction services and
18 materials through the qualified select bidders list method of project
19 delivery for new school facilities pursuant to this section.

20 Sec. 4. Section 15-2055, Arizona Revised Statutes, is amended to read:

21 15-2055. Securing principal and interest

22 A. In connection with issuing bonds authorized by this article and to
23 secure the principal and interest on the bonds, the school facilities board
24 by resolution may:

25 1. Segregate the school facilities revenue bond debt service fund into
26 one or more accounts and subaccounts and provide that bonds issued under this
27 article may be secured by a lien on all or part of the monies paid into the
28 school facilities revenue bond debt service fund or into any account or
29 subaccount in the fund.

30 2. Provide that the bonds issued under this article are secured by a
31 first lien on the monies paid into the school facilities revenue bond debt
32 service fund as provided by section 37-521, subsection B, paragraph 1 and
33 section 42-5030.01, ~~subsection A~~, and pledge and assign to or in trust for
34 the benefit of the holder or holders of the bonds all or part of the monies
35 in the school facilities revenue bond debt service fund, any account or
36 subaccount in the fund or in the school facilities revenue bond proceeds fund
37 as is necessary to secure and pay the principal, the interest and any premium
38 on the bonds as they come due.

39 3. Establish priorities among bondholders based on criteria adopted by
40 the board.

41 4. Set aside, regulate and dispose of reserves and sinking accounts.

42 5. Prescribe the procedure, if any, by which the terms of any contract
43 with bondholders may be amended or abrogated, the amount of bonds the holders
44 of which must consent to and the manner in which the consent may be given.

6. Provide for payment of bond related expenses from the proceeds of the sale of the bonds or other revenues authorized by this article and available to the board.

7. Provide for the services of trustees, cotrustees, agents and consultants and other specialized services with respect to the bonds.

8. Take any other action that in any way may affect the security and protection of the bonds or interest on the bonds.

9. Refund any bonds issued by the board, if these bonds are secured from the same source of revenues as the bonds authorized by this article, by issuing new bonds.

10. Issue bonds partly to refund outstanding bonds and partly for any other purpose consistent with this article.

B. Bonds issued to refund any bonds issued by the board as provided by subsection A, paragraphs 9 and 10 of this section are not subject to legislative authorization or the two hundred million dollar limitation prescribed by section 15-2051, subsection A.

Sec. 5. Section 42-5030.01, Arizona Revised Statutes, is amended to read:

42-5030.01. Distribution of revenues for school facilities

A. From and after June 30, 1999, if there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 6, and if the amount of monies available under section 37-521, subsection B, paragraph 1 is insufficient to pay the debt service due on the outstanding bonds in that fiscal year, the state treasurer shall transfer to the state school facilities revenue bond debt service fund established in PURSUANT TO section 15-2054 the amount that is necessary to pay the debt service due in that fiscal year on the outstanding bonds from state general fund revenues that were collected pursuant to this chapter.

~~B. From and after June 30, 1999, each fiscal year after any payments under subsection A of this section the state treasurer shall transfer, without the need for a specific legislative appropriation:~~

~~1. To the deficiencies correction fund state general fund revenues collected pursuant to this chapter in the amount that the school facilities board instructs the state treasurer pursuant to section 15-2002, subsection A, paragraph 10.~~

~~2. To the building renewal fund state general fund revenues collected pursuant to this chapter in the amount that the school facilities board instructs the state treasurer pursuant to section 15-2002, subsection A, paragraph 10.~~

~~3. To the new school facilities fund state general fund revenues collected pursuant to this chapter in the amount that the school facilities board instructs the state treasurer pursuant to section 15-2002, subsection A, paragraph 10.~~

1 Sec. 6. Laws 2002, chapter 330, section 43, as amended by Laws 2003,
2 first special session, chapter 2, section 9, is amended to read:

3 Sec. 43. Delayed repeal

4 Section 15-2021, Arizona Revised Statutes, as amended by Laws 2002,
5 chapter 330, section 37 and ~~this act~~ LAWS 2003, FIRST SPECIAL SESSION,
6 CHAPTER 2, SECTION 2, is repealed from and after June 30, 2005 2006.

7 Sec. 7. Laws 2003, first special session, chapter 2, section 22 is
8 amended to read:

9 Sec. 22. School deficiencies correction; completion exemption

10 Notwithstanding section 15-2021, Arizona Revised Statutes, as amended
11 by ~~this act~~, the Mesa unified school district, Glendale union school district
12 and Tucson unified school district shall have until June 30, 2005 2006 to
13 correct existing deficiencies.

14 Sec. 8. Appropriation; new school facilities fund

15 The sum of \$50,000,000 is appropriated from the state general fund in
16 fiscal year 2006-2007 to the new school facilities fund.

17 Sec. 9. Building renewal

18 A. Notwithstanding section 15-2031, Arizona Revised Statutes, as
19 amended by this act, or any other law, the building renewal formula is
20 suspended for fiscal year 2005-2006.

21 B. Notwithstanding any other law, the sum of \$60,080,500 is
22 transferred in fiscal year 2005-2006 from the building renewal fund
23 established by section 15-2031, Arizona Revised Statutes, to the state
24 general fund.

25 Sec. 10. State treasurer; new school facilities transfer

26 A. Notwithstanding section 15-2002, subsection A, paragraph 10,
27 Arizona Revised Statutes, as amended by this act, or any other law, the state
28 treasurer shall disregard any instructions of the school facilities board
29 relating to the new school facilities fund transfers for fiscal year
30 2005-2006 and instead shall transfer the sum of \$250,000,000.

31 B. Of the \$250,000,000 transfer, the school facilities board shall use
32 up to \$4,000,000 for full-day kindergarten capital grants.

33 Sec. 11. Effective date; applicability

34 Sections ~~15-2031~~, 15-2041, 15-2055 and 42-5030.01, Arizona Revised
35 Statutes, as amended by this act, are effective from and after June 30, 2006.

36 Sec. 12. Lease-to-own

37 A. Notwithstanding sections 15-2004, 15-2005 and 15-2006, Arizona
38 Revised Statutes, or any other law, the school facilities board shall not
39 enter into any lease-to-own transactions in fiscal year 2005-2006, except for
40 transactions undertaken to refinance or restructure lease-to-own transactions
41 undertaken prior to April 15, 2005, provided such refinancing or
42 restructurings reduce the projected overall cost of the refinanced or
43 restructured transaction.

VETO

1 B. It is the intent of the legislature that, as a consequence of
2 appropriating \$250,000,000 in fiscal year 2005-2006 and \$50,000,000 in fiscal
3 year 2006-2007 to the new school facilities fund, the legislature does not
4 intend to appropriate any future amounts to make annual payments for any
5 lease-to-own transaction undertaken by the school facilities board pursuant
6 to title 15, chapter 16, article 1, Arizona Revised Statutes, in fiscal year
7 2005-2006, except for transactions undertaken to refinance or restructure
8 lease-to-own transactions undertaken prior to April 15, 2005, provided such
9 refinancing or restructurings reduce the projected overall cost of the
10 refinanced or restructured transaction.

11 Sec. 13. Retroactivity

12 A. Section 9 of this act, relating to the building renewal fund, is
13 effective retroactively to from and after June 30, 2005.

14 B. Section 12 of this act, relating to lease-to-own agreements, is
15 effective retroactively to from and after June 30, 2005.

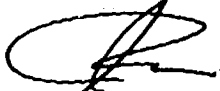
APPROVED BY THE GOVERNOR MAY 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2005.

Passed the House May 6, 20 05,

by the following vote: 44 Ayes,

12 Nays, 4 Not Voting



Speaker of the House



Chief Clerk of the House

Passed the Senate May 6, 20 05,

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting


President of the Senate


~~Assistant~~ Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13th day of May, 2005

at 11:20 o'clock a. M.


Secretary to the Governor

Approved this 20 day of

May, 20 05,

at 11 45 o'clock A. M.

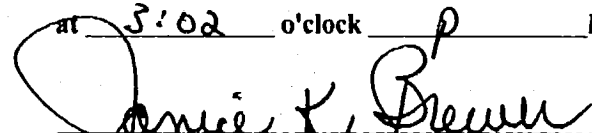

Governor of Arizona

H.B. 2769

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

This 20th day of May, 20 05,

at 3:02 o'clock P M.

Secretary of State